

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

HASAN BAYADI,)	
Plaintiff,)	Civil Action No. 7:16cv00027
)	
v.)	MEMORANDUM OPINION
)	
UNITED STATES OF AMERICA, <i>et al.</i>,)	By: Norman K. Moon
Defendants.)	United States District Judge

Hasan Bayadi, a Virginia inmate proceeding *pro se*, filed a civil rights action pursuant to 42 U.S.C. § 1983 against the United States of America, the Commonwealth of Virginia, and “Mr. McAulie: Governor of Virginia.” Bayadi alleges that the Virginia Constitution establishes Christianity as the state religion, in violation of Bayadi’s federal rights. Having reviewed the complaint, I conclude that Bayadi’s complaint is frivolous and, therefore, dismiss it pursuant to 28 U.S.C. § 1915A(b)(1).

Bayadi alleges that Article 1, Section 16 of the Virginia Constitution establishes Christianity as the “state religion,” thereby denying him his “right to be a Muslim in Virginia.” Specifically, Article 1, Section 16 states, in relevant part, that “it is the mutual duty of all to practice Christian forbearance, love, and charity towards each other.” Bayadi alleges that this phrase conflicts with the United States Constitution and that the United States has been allowing the Commonwealth of Virginia “to operate and enforce laws under a state constitution that is null and void.” He also alleges that “Mr. McAulie” is “responsible” as the Governor of Virginia. Bayadi further argues that “every single criminal trial and criminal conviction and death sentence carried out in Virginia” from 1868 to the present “has been and still is illegal” because the Virginia Constitution is “null and void.”¹

¹ Bayadi states that he is “by no means challenging his conviction.”

The court must dismiss an action if it determines that the complaint is “frivolous, malicious, or fails to state a claim upon which relief may be granted.” 28 U.S.C. § 1915A(b)(1). A “frivolous” claim is one that “lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325, 327 (1989). The court’s statutory authority to summarily dismiss frivolous complaints includes “the unusual power to pierce the veil of the complaint’s factual allegations and dismiss those claims whose factual contentions are clearly baseless.” *Id.* at 327-28. Clearly, Article 1, Section 16 of the Virginia Constitution has neither the purpose nor the effect of denying Bayadi the “right to be a Muslim.” Va. Const. art. 1, § 16.² Accordingly, I conclude that Bayadi’s allegations are baseless and, therefore, dismiss this action as frivolous pursuant to § 1915A(b)(1). *See, e.g., Myers v. Loudoun Cnty. Pub. Schs.*, 418 F.3d 395, 408 (4th Cir. 2005).

ENTER: This 29th day of April, 2016.


NORMAN K. MOON
UNITED STATES DISTRICT JUDGE

² Article 1, Section 16 of the Virginia Constitution states:

That religion or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and, therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity towards each other. No man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but all men shall be free to profess and by argument to maintain their opinions in matters of religion, and the same shall in nowise diminish, enlarge, or affect their civil capacities. And the General Assembly shall not prescribe any religious test whatever, or confer any peculiar privileges or advantages on any sect or denomination, or pass any law requiring or authorizing any religious society, or the people of any district within this Commonwealth, to levy on themselves or others, any tax for the erection or repair of any house of public worship, or for the support of any church or ministry; but it shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.

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Civil Action No. 7:16cv00027

FINAL ORDER

By: Norman K. Moon
United States District Judge

In accordance with the memorandum opinion entered this day, it is hereby **ORDERED** that Bayadi's complaint is **DISMISSED** as frivolous pursuant to 28 U.S.C. § 1915A(b)(1), his motion to amend (Docket No. 12) to change the amount of damages sought is **DENIED** as moot, and this case shall be **STRICKEN** from the active docket of the court.

The Clerk of the Court is directed to send a copy of this order and accompanying memorandum opinion to plaintiff.

ENTER: This 29th day of April, 2016.



NORMAN K. MOON
UNITED STATES DISTRICT JUDGE